

1 Nevada State Bar No. 9791
2 Law Offices of Clyde DeWitt,
3 A Professional Corporation
4 732 South Sixth Street, Suite 100
Las Vegas, NV 89101
(702) 386-1756
clydedewitt@earthlink.net

5
6 Allen Lichtenstein
7 Nevada State Bar No. 3992
3315 Russell Road, No. 222
Las Vegas, NV 89120
(702) 433-2666; Fax: (702) 433-9591
alichtensteinlaw@aol.com

9 Counsel for Plaintiff,
Arrow Productions, Ltd.

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF NEVADA
13 SOUTHERN DIVISION

14 ARROW PRODUCTIONS, LTD., a
15 Nevada Corporation,

16 Plaintiff,

17 v.

18 V.C.X. LTD., a Nevada Corporation,
DAVID H. SUTTON, an Individual and
DOES 1-10,

19 Defendants.

Case Number 2:09-cv-0737-PMP-PAL

Hon. Philip M. Pro,
United States District Judge

Hon. Peggy A. Leen,
United States Magistrate Judge

**STIPULATION, FINDINGS
THEREON, ORDER AND FINAL
JUDGMENT**

20
21 It is stipulated that:

22 **PARTIES**

23 Arrow Productions, Ltd. ("Arrow") is a corporation, organized and existing under the
24 laws of the State of Nevada, with its principal office in the City of Las Vegas, Clark County,
25 Nevada.

26 Raymond Pistol ("Pistol") is an individual, a resident and citizen of Clark County,
27 Nevada and sole owner, officer and director of Arrow.

28 Arrow and Pistol are sometimes referenced herein together as the "Arrow Parties."

1 VCX, Ltd. ("VCX") is a corporation, organized and existing under the laws of the
2 State of Nevada, with its principal office in the City of North Las Vegas, Clark County,
3 Nevada.

4 David H. Sutton ("Sutton") is an individual, a resident and citizen of Clark County,
5 Nevada and sole owner, officer and director of VCX.

6 VCX and Sutton are sometimes referenced herein together as the "VCX Parties."

7 The Arrow Parties and the VCX Parties are sometimes referenced herein together as
8 the "Parties".

9

10 **THE INTELLECTUAL PROPERTY INVOLVED**

11 *Deep Throat*

12 Deep Throat, also known as Deep Throat Starring Linda Lovelace, is a motion picture,
13 first exhibited theatrically in 1972 and the first in a series of motion pictures including "Deep
14 Throat" in the title. The first Deep Throat motion picture is the subject of Document Number
15 V1705P538 in the United States Copyright Office, Date of Recordation, January 19, 1979.

16 Deep Throat® also is a trademark because it identifies a series of motion pictures
17 including "Deep Throat" in the title. The Deep Throat® mark is registered with the United
18 States Patent and Trademark Office, Registration Number 2993913; Registration Date
19 September 13, 2005.

20 Linda Lovelace® also is a trademark because it identifies a character in series of
21 motion pictures including "Deep Throat" in the title. The Linda Lovelace® mark is
22 registered with the United States Patent and Trademark Office, Registration Number
23 3691818; Registration Date October 6, 2009.

24

25

26

27

28

Page 2

STIPULATION, FINDINGS THEREON, ORDER AND FINAL JUDGMENT

Case Number 2:09-cv-00737-PMP-PAL

1 The above copyright and trademark rights involving "Deep Throat" are collectively
 2 referenced herein as the "Deep Throat Rights."

3

4 ***Debbie Does Dallas***

5 Debbie Does Dallas is a motion picture, first exhibited theatrically in or around 1978.
 6 That motion picture is the subject of Document Number PA0000194646 in the United States
 7 Copyright Office, Date of Recordation October 14, 1983.

8 Debbie Does Dallas® also is a trademark because it identifies a series of motion
 9 pictures including "Debbie Does Dallas" in the title. The Debbie Does Dallas® mark was
 10 registered by Arrow with the United States Patent and Trademark Office, Registration
 11 Number 3260989; Registration Date July 10, 2007

12 The above copyright and trademark rights involving the motion picture Debbie Does
 13 Dallas are collectively reverenced herein as the "Debbie Does Dallas Rights".

14

15 **UNDERLYING FACTS**

16 1. Louis Peraino ("Peraino") in 1972 hired Gerrard Damiano to direct the movie
 17 Deep Throat for him. Accordingly, under the copyright law, Deep Throat was a work for
 18 hire, made by Peraino at his personal expense. The author and therefore original copyright
 19 owner therefore was Peraino, individually.

20 2. Peraino's agent erroneously registered the copyright to Plymouth Distributors,
 21 a corporation that did not then, in 1972, exist; in fact Plymouth Distributors was a fictitious
 22 business name of Peraino's.

23 3. Peraino continued to personally own the copyright on Deep Throat from then
 24 until 1996, although he licensed it to a number of corporations that he owned. Those licenses

25

26

27

28

1 were not in writing. One such licensee was Plymouth Distributors, Inc., a New York
 2 Corporation, which was chartered in 1976; the license expired by operation of law in 1981
 3 when the corporation discontinued operation.

4 4. In 1996, Arrow Productions, Ltd., a Nevada corporation and the plaintiff in this
 5 case ("Arrow"), purchased the copyrights from Peraino by written assignment from Peraino
 6 to Arrow Productions, Ltd.

7 5. Deep Throat was exhibited in theaters beginning in 1972, first in New York
 8 City and then in Los Angeles (Hollywood), California. According to the testimony of
 9 Charles Bernstein, which the parties credit, Peraino never relinquished copies of any of the
 10 prints to Deep Throat until the 1980s; and those prints each included a copyright notice.
 11 Before then, the prints may or may not have included a copyright notice but it was of no
 12 moment because Peraino leased the entire theaters, paid all of the employees and collected
 13 the revenues, remaining in control of the prints. That process is known in the theater
 14 business as "four walling."

15 6. Thus, contrary to what VCX believed, Deep Throat was not put into the public
 16 domain by virtue of circulating prints without a copyright notice. While there may have been
 17 prints of Deep Throat that were circulated without a copyright notice, those were amongst
 18 the many unauthorized prints that were made by the film lab without knowledge or
 19 authorization of Peraino or his corporation and sold illegally.

20 7. Accordingly, Arrow owns a valid copyright on the motion picture *Deep Throat*.

21
 22 **CONSENT DECREES**

23 **I.**

24
 25
 26

27 **Page 4**

28 **STIPULATION, FINDINGS THEREON, ORDER AND FINAL JUDGMENT**

Case Number 2:09-cv-00737-PMP-PAL

1 The Arrow Parties, along with their owners, directors, officers, employees agents
2 successors and assigns and anyone working in concert with any of them, are permanently
3 enjoined from:

4 1. Manufacturing, copying or otherwise reproducing or making any derivative
5 work of *Debbie Does Dallas* in any tangible medium, whether now known or contemplated,
6 including but not limited to DVD, videotape, and magnetic storage;

7 2. Granting any license or accepting any licensing fee from any source for *Debbie*
8 *Does Dallas*.

9

10

II.

11 The VCX Parties, along with their owners, directors, officers, employees agents
12 successors and assigns and anyone working in concert with any of them, are permanently
13 enjoined from:

14 1. Manufacturing, copying or otherwise reproducing or making any derivative
15 work of *Deep Throat* in any tangible medium, whether now known or contemplated,
16 including but not limited to DVD, videotape, and magnetic storage;

17 2. Granting any license or accepting any licensing fee from any source for *Deep*
18 *Throat*.

19

DISPOSITION OF THE ACTION

21 The court will retain jurisdiction of this case for the limited purpose of enforcing the
22 consent decree. Otherwise,

23

24

25

26

27

Page 5

28

STIPULATION, FINDINGS THEREON, ORDER AND FINAL JUDGMENT

Case Number 2:09-cv-00737-PMP-PAL

1 1. The allegations in the complaint concerning the ownership and validity of the
2 copyrights and trademarks associated with the motion pictures *Deep Throat* and *Devil in
3 Miss Jones* are dismissed without prejudice.

4 2. The remainder of the allegations are dismissed with prejudice.

5 3. The parties shall bear their own costs and attorneys fees.

6 So Stipulated:

Arrow Productions, Ltd.

V.C.X., Ltd.

By: Raymond Pistol, President
Raymond Pistol, Individually

By: David H. Sutton
David M. Sutton, President
David H. Sutton
David M. Sutton, Individually

ORDER AND JUDGMENT

It is so ordered.

16 | THIS IS A FINAL JUDGMENT.

Signed this 18th day of October, 2011.

Philip M. Orr

UNITED STATES DISTRICT JUDGE

Page 6

STIPULATION, FINDINGS THEREON, ORDER AND FINAL JUDGMENT

1 Dated: October 18, 2011.

Approved:

2 CLYDE DeWITT
3 LAW OFFICES OF CLYDE DeWITT, APC
4 ALLEN LICHTENSTEIN, ESQ.

5 By: /s/ Clyde DeWitt
6 Clyde DeWitt

7 Counsel for Plaintiff,
8 Arrow Productions, Ltd.

9 TIMOTHY C. RILEY
10 LAW OFFICES OF TIMOTHY

11 ROBERT B. POOLE
12 ROBERT B. POOLE, PC

13 By: /s/ Robert B. Pool
14 Robert B. Pool

15 Counsel for Defendants,
16 V.C.X., Ltd. And David H. Sutton

27 Page 7

28 STIPULATION, FINDINGS THEREON, ORDER AND FINAL JUDGMENT

Case No. 2:09-cv-737-PMP-PAL